

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

PRECIOUS SILVA,

Plaintiff,

vs.

CIV 16-0956 KBM

NANCY A. BERRYHILL,  
ACTING COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER FOR THE AWARD OF ATTORNEY FEES PURSUANT  
TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(D)**

THIS MATTER is before the Court on the Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act filed on December 6, 2017. [Doc. 26]. The parties have stipulated to EAJA fees in the amount of \$7,500.00 for work performed in 2016 and 2017. The Court being otherwise fully advised in the premises, finds that the motion is well-taken and will be granted.

Wherefore,

**IT IS HEREBY ORDERED** that the motion is **granted**, and Plaintiff is awarded \$7,500.00 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Dated: December 6, 2017.

  
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THE HONORABLE KAREN B. MOLZEN  
UNITED STATES CHIEF MAGISTRATE JUDGE

Submitted By:

/s/Michael D. Armstrong

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Approval On 12/6/17

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